IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.13984 of 2003

Dated: 25-07-2007

Between:

1. P. Malleswara Prasad, s/o Chinni Venkata Ramanappa and 8 others.

... Petitioners

and

1. The Joint Collector, Anantapur and another.

... Respondents

ORDER:

Petitioners state that petitioner No.1 is the owner of a mini lorry bearing No.KA-25-1986, petitioner No.2 is the owner of a splendor motorcycle bearing No.KA-07-H-8078 and petitioner Nos.3 to 9 are the owners of groundnut seeds. They further state that as per the directions of second respondent – Mandal Revenue Officer, the Mandal Revenue Inspector and Grampanchayat Secretary have taken custody of the vehicles and groundnut stocks on 25-06-2003, on the ground that there was illegal transportation of groundnut seeds. Thereafter, second respondent conducted a panchanama and seized the vehicles and groundnut stocks and requested first respondent – Joint Collector to initiate action under the provisions of the Essential Commodities Act, vide proceedings in

Rc.No.394/2003(B), dated 26-06-2003. Assailing the said action and for release of the vehicles as well as the groundnut stocks, the present writ petition has been filed.

2. Despite the fact that respondents are served with the notices, they have not chosen to file any counter affidavit.

3. Heard learned counsel for the parties.

4. From a perusal of the Memo No.961/CS.I (2), dated 27-03-2002 this Court is of the view that the groundnut, which was in possession of petitioners, is excluded from out of the purview of the Andhra Pradesh Scheduled Commodities Dealers Licence and Distribution Order, 1982. The text of the said Order reads as follows--

> "Government of India vide reference first cited, communicated the GSR No.104 (E), dated 15-02-2002 pertaining to Removal of (Licensing Requirements, Stock Limits and Movement Restrictions) on specified Foodstuffs, Order, 2002. In view of these orders, the AP Scheduled Commodities Dealers (Licensing and Distribution) Order, 1982 applies only to pulses and does not apply to any other commodities in the AP Scheduled Commodities Dealers (Licensing and Distribution) Order, 1982. The dealers (as defined in clause 2(1) of the Removal of (Licensing Requirements, Stock Limits and Movement Restrictions) on specified Foodstuffs Order, 2002 in wheat paddy/rice, coarse grains, Sugar, edible oilseeds and edible oils are not required to take a permit or licence under the AP Scheduled Commodities Dealers (Licensing and Distribution) Order, 1982, an order issued under the Essential Commodities Act, 1955."

5. It is the contention of learned Government Pleader that the groundnut is not specifically mentioned in the said Memo. This Court is of the view that the said contention of learned Government Pleader has no substance as the word that is used in the said Memo is 'edible oil seeds' and it cannot be disputed that the groundnut that was seized from out of the possession of petitioners is not an edible oil seed. Hence, this Court is of the view that the

said seizure and the consequential proceedings are contrary to the Memo, dated 27-03-2002.

6. Accordingly, the writ petition is allowed holding that the seizure of vehicles and groundnut stock effected as per proceedings in Rc.No.394/03(B), dated 26-06-2003 is illegal, arbitrary and without jurisdiction. No costs.

However, it is made clear that in view of the final orders passed in the writ petition, the conditions, if any, imposed by this Court for release of seized vehicles and stocks in question, shall stand relaxed.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.25-07-2007
GLV